

# Vogel Paint and Wax Co. Superfund Site

Location: Maurice, Iowa

Lead Division/Office: SEMD

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## Key Message

EPA is working with Iowa Department of Natural Resources or IDNR and the Potentially Responsible Party or PRP, Diamond Vogel, to resolve concerns about groundwater contamination that has migrated to off-site areas beyond the point of compliance selected in historical site decision documents.

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## Background

The site is a state-lead National Priorities List or NPL site managed by IDNR. IDNR issued a Record of Decision for the Site in September 1989 and entered into a Consent Decree with Vogel in July 1990 for implementation of the selected remedy. IDNR subsequently issued an Explanation of Significant Differences or ESD in July 1994 and a second ESD in October 2000, with EPA concurrence. The October 2000 ESD established the “point of compliance” for groundwater cleanup at the site property boundary. In July 2003, groundwater monitoring data indicated that the contaminant plume had migrated beyond the property boundary. In November 2018, Vogel proposed implementation of a bioremediation pilot study to address off-site contaminant migration.

EPA has served as the lead drafter of both the Fourth and Fifth Five-Year Reviews or FYR. During the Fifth FYR process in 2019, EPA noted in a draft FYR that the groundwater point of compliance for the Site appears to be inconsistent with EPA guidance. EPA’s draft FYR recommended that IDNR consider requiring groundwater cleanup throughout the plume rather than to the property boundary. EPA Region 7 has engaged OSRTI on the issue, and OSRTI supports changing the point of compliance approach.

In early July 2019, both IDNR and Diamond Vogel, through its outside legal counsel, strongly objected to changing the point of compliance, referring to EPA’s concurrence on the October 2000 ESD and the agency’s past failure to raise the issue in previous FYRs. Diamond Vogel counsel sent a letter to EPA also stated that the company was questioning whether to proceed with the bioremediation pilot study if the point of compliance for groundwater would be changed from the property boundary to site-wide. In response to these comments, EPA identified the inconsistency of the groundwater cleanup point of compliance among a list of “Other Findings” in the Fifth FYR, signed by EPA on September 10, 2019. The FYR notes the inconsistency with the national groundwater policy but does not suggest the need for an amended remedy at this time.

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## Upcoming Actions/Next Steps

On September 17, 2019, EPA transmitted the Fifth FYR to IDNR and Diamond Vogel under cover of a letter providing a general response to the parties’ comments on the draft FYR. Region 7 will hold a coordination call with IDNR on September 18, 2019 to discuss the final language in the FYR as well as the path forward for the pilot studies at the site. During this call, EPA will offer to meet with IDNR and Diamond Vogel to reach a mutually agreeable resolution of the groundwater point of compliance issue. A copy of EPA’s response letter will be shared with the offices of Senator Ernst and Senator Grassley in response to requests for information regarding this site.

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## Key Stakeholders

Diamond Vogel – PRP at the Site

Verdant Law, PLLC – Outside legal counsel for Diamond Vogel

IDNR – Lead agency for the Site

EPA Region 7 – Support agency for the site

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## Other Issues or Sensitive Topics

The Fifth FYR concludes that the remedy at the Site is short-term protective, offering two recommendations:

1. The agency first recommends that additional source removal efforts be undertaken to reduce off-site migration of contaminants. Diamond Vogel would implement these efforts as part of the pilot studies at the Site.
2. Second, the agency recommends that proprietary controls be implemented to prevent exposure to contaminated groundwater at the Site. A proprietary control will provide an additional institutional control layer to the Site's current listing on Iowa's Registry of Hazardous Waste Disposal Sites, which is an informational device that itself does not establish an enforceable prohibition against uses of on-site groundwater that may lead to human exposure.

Diamond Vogel would most likely agree to the implementation of these institutional controls sometime during the implementation of the pilot studies.